United Nations S/AC.44/2013/10

Security Council

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Security Council Committee established pursuant to resolution 1540 (2004)

Note verbale dated 2 July 2013 from the Permanent Mission of the Philippines to the United Nations addressed to the Chair of the Committee

The Permanent Mission of the Republic of the Philippines to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution 1540 (2004) and, with reference to the latter's letter dated 27 February 2013, has the honour to transmit the updated information on the steps taken by the Government of the Republic of the Philippines to ensure the implementation of measures stipulated in Security Council resolution 1540 (2004), adopted on 28 April 2004 (see annex).

13-39453 (E) 310713

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Annex to the note verbale dated 2 July 2013 from the Permanent Mission of the Philippines to the United Nations addressed to the Chair of the Committee

Steps taken by the Government of the Philippines to ensure the implementation of measures stipulated in Security Council resolution 1540 (2004)

1. Chemical Weapons Prohibition Act

As a State party to the Chemical Weapons Convention, the Philippines is in the process of finalizing the Chemical Weapons Prohibition Act of 2012, known as "An Act Prohibiting the Development, Production, Stockpiling, Use of Chemical Weapons and on Their Destruction and Providing Penalties Therefor and for Other Purposes". The draft legislation is now pending review.

2. Developing counter-terrorism capacity

The Philippine Coast Guard is taking specific measures to curb terrorism through the following activities:

- Continuous deployment of sea marshals composed of Armed Forces of the Philippines/Philippine National Police/Philippine Coast Guard personnel on high-interest vessels sailing between the Visayan/Mindanao regions and Luzon (Manila).
- Use of Philippine Coast Guard K-9 units to search for bombs, firearms and illegal drugs concealed inside baggage and cargo containers as a pre-departure measure in ports and as a continuing security measure on board the vessel while it is under way.
- Training the Coast Guard Antiterrorism Unit to act as a rapid deployment force in the areas of antiterrorism, anti-piracy/sea jacking and explosive ordnance disposal.
- Deployment of the Surface Task Force, which consists of four 56-m search and rescue vessels, four 35-m patrol vessels and ten 30-m and four 7-m surveillance vessels, over a wide area to maximize presence while retaining the ability to converge in actual crisis incidents in order to achieve the highest level of response.
- Deployment of the Air Group (airborne assets) to support the Surface Task Force. It is equipped with fixed-wing islander aircrafts and helicopters and provides active maritime surveillance and early detection.
- Continuing and expanded intelligence training programmes through its own intelligence training facility and through cross-training with the armed forces and the national police.

Antiterrorism and core facility training courses and seminars were also conducted by nationals of Japan, the United Kingdom and the United States, in coordination with counterparts from the Philippines. Capacity-building for terrorism was also conducted by the United States.

3. Facilities upgrade

There is a proposal to upgrade the facilities of the Research Institute for Tropical Medicine to a biosafety level 3 laboratory, to be funded by the Japan International Cooperation Agency.

The United States Department of Energy/National Nuclear Security Administration, through the programme under the Global Threat Reduction Initiative, is assisting the Government of the Philippines, through the Philippine Nuclear Research Institute, in providing physical protection upgrades at all radiation facilities using high-risk radioactive sources (category 1). The Global Threat Reduction Initiative project will also extend the security upgrades to category 2 sources, especially industrial radiography.

The United States Department of Energy/National Nuclear Security Administration, through the Oak Ridge National Laboratory, put up the Transport Control Communication Centre at the Philippine Nuclear Research Institute. The Centre will monitor, control and coordinate the movement of category 1 and 2 sources within the country. A vehicle equipped with tracking and other security systems was provided to complement the Centre.

4. Human Security Act of 2007 (amendments)

In order to make the Human Security Act of 2007 a more effective tool in the fight against terrorism, a technical working group under the leadership of the Philippine Antiterrorism Council met recently to amend the Act. Supported by the United Nations Office on Drugs and Crime (UNODC), the meeting attendees discussed the definition of terrorist offences, the design of practical and accountable investigation techniques and the changes to the Human Security Act to fulfil the Philippines' obligations under international law. The proposed amendments to the Act have been duly consolidated, and the Act was included in the Legislative-Executive Development Advisory Council.

In addition, the amendments will provide penal provisions under the International Convention for the Suppression of Acts of Nuclear Terrorism and the 2005 Amendment to the Convention on the Physical Protection of Nuclear Material.

5. Megaports Initiative project

The Government of the Philippines, through the Bureau of Customs, Asian Terminals, Inc., the Philippine Nuclear Research Institute and International Container Terminal Services, Inc., with the assistance of the Government of the United States of America, initiated this project to address concerns in the prevention of illegal trafficking in nuclear and other radioactive materials. It involves the installation of radiation portal monitors at specific places of major ports in the Philippines (North and South harbours and the port of Cebu) and the establishment of a central alarm station monitoring unit manned round the clock on a three-shift rotation by the Enforcement and Security Service personnel of the Bureau of Customs. This equipment will detect nuclear and other radioactive materials in cargo and containers passing through the ports. The Bureau also participated in a training seminar on radiation handling in Italy, and a technical working group was formed to establish a national training committee.

The Philippine Nuclear Research Institute, in cooperation with the United States Department of Energy/National Nuclear Security Administration, conducted a megaports awareness seminar for management to the senior management of the Cebu Port Authority and the Bureau of Customs and an operational readiness training course to the designated central alarm station operators.

6. National single window project

The national single window project is an ongoing project involving a computerized Internet-based system that allows entities involved in trade to lodge information and documents with a single entry point to fulfil all import-, export- and transit-related regulatory requirements. There are about 40 government agencies involved in the issuance of import and export licences, permits and clearances for trade facilitation over Philippine borders that will provide the agencies with the ability to share and counter-check information online.

7. National Coast Watch System

The National Coast Watch System was established by virtue of Executive Order 57, issued by the President of the Philippines, Benigno S. Aquino III, on 6 September 2011. The System aims to serve as the central inter-agency mechanism for a coordinated and coherent approach on maritime issues and maritime security cooperation towards enhancing governance of the country's maritime domain. The System is vital in protecting the maritime domain and in preventing the trafficking and proliferation of weapons of mass destruction pursuant to the Proliferation Security Initiative.

The National Coast Watch Council is the central inter-agency body that oversees the implementation of the National Coast Watch System and provides strategic direction for multinational and cross-border cooperation on maritime domain awareness and security.

The Government of the Philippines is currently strengthening the operational procedures for the National Coast Watch System through upgrades in facilities and equipment with a view to more effective government-wide maritime domain awareness and security.

8. National policy on laboratory biosafety and security

At the national level, the Department of Health, the Research Institute for Tropical Medicine and the Bureau of Animal Industry continue to exercise heightened vigilance in the conduct of surveillance of emerging and re-emerging infectious diseases.

The Department of Health has initiated the development of a joint administrative order with the Department of Agriculture and the Bureau of Animal Industry on a national policy on laboratory biosafety and biosecurity. The objective is to establish a strategic framework for the implementation of a national programme on laboratory biosafety and biosecurity.

Under the stewardship of the Department of Health, a manual on standards and a manual on guidelines and procedures on laboratory biosafety and biosecurity have already been published and disseminated. The Department of Health also published an assessment tool on safe hospitals for disaster preparedness and response, with a

chapter devoted to the safety and security of hospital laboratories. Recently, the Department of Health issued an administrative order on the framework for health sector response to terrorism to provide guidelines for responding to acts of terrorism that includes the aspect of laboratory biosafety and biosecurity.

9. National security policy 2011-2016

A national security policy, which is a statement of principles that should guide national decision-making and determine the course of action to be taken with a view to the protection and enhancement of the nation's interests, the well-being of the Filipino people and institutions, sovereignty and territorial integrity, has been developed. The purpose of the national security policy is to identify the strategic priorities to establish the correct balance in the "guns or butter" debate for the allocation of scarce resources and to establish priority, among others, between external and internal defence.

10. Philippine Biosafety and Biosecurity Association, Inc.

One of the main objectives of the Association is to assist government agencies in developing a national policy and implementation plan for biosafety and biosecurity. In line with promoting biosafety and biosecurity, key agencies, such as the Research Institute for Tropical Medicine, the Bureau of Animal Industry, the Philippine Animal Health Centre and the University of the Philippines Manila have undergone security upgrades. They are also currently formulating a national policy on laboratory biosafety and biosecurity.

The Philippines participated in an advanced biosafety officers training course conducted by the University of the Philippines Manila Institutional Biosafety Committee in partnership with the United States Department of State Biosecurity Engagement Programme and the Association.

11. Philippine Nuclear Research Institute updates on the Integrated Nuclear Security Support Plan

The Global Threat Reduction Initiative of the United States Department of Energy is a comprehensive global initiative to address the issue of nuclear security around the world and reduce the threat of nuclear terrorism. During this period, the Philippine Nuclear Research Institute, under the supervision of the International Atomic Energy Agency (IAEA), updated the Integrated Nuclear Security Support Plan.

The Philippine Nuclear Research Institute, with the assistance of an IAEA expert, conducted a two-day meeting with other relevant government agencies to review and update the Integrated Nuclear Security Support Plan for further implementation of nuclear security activities in the Philippines from 2013 to 2015. Additional activities were identified for immediate implementation with the donors.

12. Revised Armed Forces of the Philippine Modernization Law (Republic Act 10349)

The Revised Armed Forces of the Philippine Modernization Law (Republic Act 10349) seeks to further upgrade the armed forces' defence capabilities for the

country's protection and security as they shift from internal to external defence capability.

The Law aims to improve the country's defence posture by upgrading capabilities in the areas of maritime situational awareness, credible deterrence and maritime cooperation.

The Department of National Defence has programmed acquisitions of modern equipment aimed at enhancing the country's National Coast Watch System under the military's capability upgrade and modernization programme.

13. Inventory of military equipment and materials

The Department of National Defence keeps an inventory of all military equipment and material to ensure that all weapons are accounted for and the procured items are with authorized end users. The Government Arsenal is currently working on acquiring machines to serialize its ammunitions. Pursuant to new guidelines from the armed forces, all ammunitions from 20-mm calibre and up will be serialized. The armed forces are also in the process of establishing a weapons ammunition management information system, which is a centralized electronic database system for all munition assets of the armed forces.

14. Ships and port security plans

The Philippine Coast Guard is in charge of enforcement of the provisions of the International Ship and Port Facility Security Code. This has given it the opportunity to keep a systematic record of the vulnerabilities of various vessels and ports, which are relevant inputs in coordinating responses to future crisis by Government and private security forces. As part of its International Ship and Port Facility Security Code-related functions, Philippine Coast Guard elements assist with the following activities pertaining to port security: (a) review and approve port security assessments; (b) review and approve port security plans; (c) conduct on-screen security surveys; and (d) conduct random audits of ports to ensure continuous compliance with standards. As regards ship security, the Philippine Coast Guard assists with the following International Ship and Port Facility Security Code-related tasks: (a) on-scene ship security surveys; and (b) random audits of ships to ensure continuous compliance with standards.

Part of the Philippine Coast Guard participation in the implementation of the International Ship and Port Facility Security Code in accordance with resolution 1540 (2004) is the performance of its port State control functions. The Port State Control Officer determines the compliance of the vessel with security aspects contained in two separate check-off lists pertaining to access controls, handling and monitoring of ship stores, identification of restricted areas and others. The Port State Control Officer also determines the validity of: (a) the International Ship Security Certificate on board; (b) security levels being implemented; (c) compliance of ships in conducting security drills; and (d) efficiency in communication between and among the crew. The Port State Control Officer always pays particular attention to the last 10 ports of call of the ship under inspection; to interface records, which must state the security level at which the ship operated; to any special or additional security measures enforced; and that appropriate ship security measures were maintained during any ship activity.

Corollary to the International Ship and Port Facility Security Code, the Philippines has existing border crossing and border patrol agreements with Malaysia and Indonesia. These agreements enable the Philippines to pursue border security cooperation with its neighbours, in particular in preventing the smuggling of illicit goods, including unauthorized weapons.

15. Strategic Trade Management Act

The Philippines is working on legislation known as the Strategic Trade Management Act. Its formal title is "An Act to Prevent the Proliferation of Weapons of Mass Destruction, as well as Conventional Weapons, by Regulating the Transfer of Strategic Goods and for Other Purposes". The draft legislation will be submitted to the Sixteenth Congress of the Philippines for its consideration.

The Philippines recognizes the importance of a legal framework in curbing the proliferation of weapons of mass destruction, particularly the trading of dual-use goods, without unnecessarily restricting legitimate trade. The draft Strategic Trade Management Act would be critical in addressing the issue of so-called black markets, where unauthorized actors can obtain weapons of mass destruction or their components.

16. X-ray inspection programme

At present, the Bureau of Customs has acquired 30 Nuctech container X-rays and several smaller X-rays under its X-ray inspection project, a non-intrusive container inspection project of the Office of the Commissioner, with the Commissioner as the overall project head to be assisted by an executive assistant and a project point person, who will oversee the operational and administrative functions of the project. The project is a key measure to detect smuggled goods — to conduct X-ray scanning operations on all incoming and outgoing shipments in consonance with trade facilitation, with a view to the prevention of contraband and antisocial goods while increasing revenue.

International commitments/obligations related to resolution 1540 (2004)

1. Activities on the Biological Weapons Convention

The Philippines attaches importance to strengthening the implementation of the Biological Weapons Convention and has been actively engaged in advancing biosecurity and biosafety cooperation in the Asia-Pacific region. Regional synergy and cooperation within the Association of Southeast Asian Nations (ASEAN) and the ASEAN Regional Forum, as well as the country's relations with strategic partners, such as the United States, Australia and the European Union, have significantly advanced the vision and objectives of the Convention. ASEAN is committed to the establishment of an ASEAN political security community by 2015, and chemical, biological, radioactive and nuclear issues have become an important part of the agenda. The Philippines, in partnership with Australia and the United States, has hosted annual workshops within the ambit of the ASEAN Regional Forum on the themes of biological threat reduction, biorisk management, disease surveillance and detection, preparedness and response from 2009 to 2012. These workshops brought together vital stakeholders, such as biosafety professionals,

medical and veterinary practitioners and policymakers from the 10 member countries of ASEAN and 13 countries from the Asia-Pacific and the European Union.

2. Activities on the Treaty on the Non-Proliferation of Nuclear Weapons

The Philippines, through Ambassador Libran N. Cabactulan, was President of the 2010 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, which is regarded as one of the most successful Review Conferences in the history of the Treaty and resulted in a 64-point action plan on the three pillars of the Treaty, as well as an agreement on the 1995 Resolution on the Middle East. The Philippines continues to adhere to its Treaty obligations.

3. Bilateral agreement with the Netherlands

The Philippines has concluded a bilateral agreement with the Netherlands establishing a legal basis for rendering assistance and exchange of information between the two countries to help ensure the proper application and enforcement of customs laws so as to prevent transnational crimes between the Philippines and the Netherlands.

4. Chemical, Biological, Radiological and Nuclear Risk Mitigation Centres of Excellence

The Philippines, in coordination with the European Union and the United Nations Interregional Crime and Justice Research Institute, officially launched the Chemical, Biological, Radiological and Nuclear Risk Mitigation Centres of Excellence regional secretariat on 6 May 2013. The Centres of Excellence are an initiative of the European Union jointly implemented by the United Nations Interregional Crime and Justice Research Institute and the European Commission Joint Research Centre that aims to implement a coordinated strategy for chemical, biological, radiological and nuclear risk mitigation at the national, regional and international levels. The Centres of Excellence initiative supports the reinforcement of the Institutional capacity needed to fight against the risk.

5. Customs agreement between Israel and the Philippines

Israel and the Philippines entered into an agreement that sets parameters for the exchange of information and knowledge that will facilitate trade, aid in investigations and reciprocal enforcement actions to prevent customs offences.

6. Moscow-Manila Agreement

The Moscow-Manila Agreement was signed at simple rites at the Manila Hotel on 24 April 2012. The Agreement would initiate information exchange for the benefit of the countries and provide assistance in the areas of trade statistics, customs law enforcement, human resource development, technical know-how and trade facilitation.

7. Proliferation Security Initiative

The Philippines is a partner nation in the Proliferation Security Initiative, which seeks to establish a more coordinated and effective approach in dealing with the trafficking of weapons of mass destruction, their delivery systems and related items.

8. Ratification of the IAEA Additional Protocol

In February 2010, the Philippines ratified the IAEA Additional Protocol. The essence of the Additional Protocol is to reshape the IAEA safeguards regime from a quantitative system focused on accounting for known quantities of materials and monitoring declared activities to a qualitative system aimed at gathering a comprehensive picture of a State's nuclear and nuclear-related activities, including all nuclear-related imports and exports. The Additional Protocol also substantially expands the ability of IAEA to check for clandestine nuclear facilities by providing the Agency with authority to visit any facility, declared or not, to investigate questions about or inconsistencies in a State's nuclear declarations. States parties to the Treaty on the Non-Proliferation of Nuclear Weapons are not required to adopt an additional protocol, although IAEA is urging all to do so.

9. Security in the transport of radioactive material

The Philippine Nuclear Research Institute has developed part 27 of its Code of Regulations, "Security requirements in the transport of radioactive material", with assistance from the United States Department of Energy/National Nuclear Security Administration and the Oak Ridge National Laboratory. Part 27 of the Code aims to ensure that the security of radioactive materials during transport is adequately addressed by transport operators, agents and concerned authorities and, in doing so, prevent illegal diversion, trafficking, theft and/or sabotage of such materials during transport. The National Nuclear Security Administration also provided assistance in the conduct of training on transport security for regulators and radioactive material licence holders.

Training received from international partners related to resolution 1540 (2004)

1. Training Programme for Collaborative Intelligence, Investigation and Prosecution of Terrorism-Related Cases

The Training Programme for Collaborative Intelligence, Investigation and Prosecution of Terrorism-Related Cases has been undertaken as part of the Philippines-UNODC partnership on the Programme on Strengthening Criminal Justice Responses to Terrorism.

Its specific objectives are:

- To enhance the collaboration of key officials in the field of intelligence, investigation and prosecution for effective prosecution of terrorism-related cases
- To provide a better understanding and awareness among officials in the law enforcement, security and prosecution sectors of the functions of intelligence, investigation and prosecution functions and on how those functions provide value in the successful prosecution of terrorism-related cases

It has undertaken the following projects/activities:

- Development of a training manual for collaborative intelligence, investigation and prosecution of terrorism-related cases, which will serve as a standard reference/guide in the conduct of training

- Establishment of a pool of trainers for future training roll-outs in priority regions through the undertaking of a training-of-trainers project in February 2013
- Conduct of a training course in collaborative intelligence, investigation and prosecution of terrorism-related cases in May 2013 for key officials in regions IX and XII from the law enforcement, security and prosecution sectors who are performing intelligence, investigation and prosecution functions

Future training roll-outs will be conducted in other regions through the adoption of a mechanism that would ensure the Programme's sustainability.

2. Commodity Identification Training

The Office of the Special Envoy on Transnational Crime, with the assistance of the United States Department of Energy, has developed the Commodity Identification Training Programme, which will be integrated in the regular training programmes of law enforcement academies. It aims to assist in preventing the proliferation of weapons of mass destruction and their delivery systems by training customs officers in inspecting shipments to identify commodities, materials and equipment used in the design, development and production of nuclear, biological and chemical weapons of mass destruction, as well as missile delivery systems.

3. Training of vessel traffic management systems operators

On-the-job training on vessel traffic management systems was conducted for personnel of the Philippine Ports Authority and the Philippine Coast Guard from March to October 2010. The training programme provided the participants with knowledge and skills on their operational procedures concerning the vessel traffic management systems' operation, measures of reporting of incidents on pollution, piracy and smuggling search and rescue operations by the Philippine Coast Guard and other matters that require immediate decision-making.

4. Explosive ordnance disposal training

Through training programmes, the United States State Department's antiterrorism assistance programme has strengthened the counter-terrorism capacity of the national police. This includes establishing facilities for explosive ordnance disposal training and a forensics laboratory used by police for post-blast investigations. Explosive ordnance disposal training was conducted on 30 April 2012.

5. Philippine Border Management Project

European Union trade-related technical assistance, in cooperation with several Philippine government agencies, established the Philippine Border Management Project, which contributes to the efforts of the Philippines to enhance its border management capabilities.

6. Subprogramme on counter-terrorism: East and South-East Asia partnership on criminal justice responses to terrorism

Since 2003, UNODC has been providing specialized assistance to countries, including South-East Asia, on the criminal justice aspects of counter-terrorism. With the aim of enhancing country-specific focus, in 2011 UNODC initiated an East and South-East Asia partnership on criminal justice responses to terrorism, with

emphasis on implementation capacity-building at the national level. The subprogramme aims to assist countries in the region in achieving the effective implementation of rule of law-based criminal justice responses to terrorism. For this purpose, it seeks to provide assistance to requesting countries in:

- Establishing a national counter-terrorism legal framework in accordance with international instruments
- Improving the capacity of the national criminal justice system to implement rule of law-based counter-terrorism measures
- Undertaking transnational cooperation in criminal justice and related aspects of counter-terrorism

The Government of the Philippines and UNODC have formalized a partnership collaboration on counter-terrorism, under the framework of the South-East Asia partnership on criminal justice responses to terrorism. Under its strengthened partnership with the Philippines, UNODC supported legislative modifications relating to the main national counter-terrorism law (the Human Security Act of 2007), the financing of counter-terrorism, extradition and mutual legal assistance. These initiatives will bring together key national entities.

7. Chemical, biological, radioactive and nuclear explosives training

The Government of Canada has been sponsoring a chemical, biological, radioactive and nuclear explosives course in the Philippines since 2010. A total of 77 personnel from the Armed Forces of the Philippines, the Philippine National Police, the Philippine Coast Guard and the Bureau of Fire Protection participated in the course held from 11 to 13 March 2013.

8. Radiological security training

Since 2011, the Philippine Nuclear Research Institute, in cooperation with the United States Department of Energy/National Nuclear Security Administration, has conducted radiological security incident training to enhance the capability and effectiveness of the national police in responding to incidents involving theft or sabotage of radioactive sources. This is in line with the Philippine Nuclear Research Institute-United States Department of Energy project under the Global Threat Reduction Initiative.

The Second Line of Defence Programme of the United States is planning to provide a mobile detection system to the Philippine National Police.

9. Border training under the European Commission Joint Research Centre

The European Commission Joint Research Centre, with the United States partner in the Megaports Initiative project, will install a radiation portal monitor at the Philippine Nuclear Research Institute for the training of front-line officers. Handheld detection equipment will also be deployed for use in the training. The project provides training to Philippine Nuclear Research Institute instructors through participation in training courses in Ispra, Italy.

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Security Council

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22 July 2013

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Security Council Committee established pursuant to resolution 1540 (2004)

Letter dated 15 July 2013 from the Permanent Representative of Liberia to the United Nations addressed to the Chair of the Committee

I have the honour to refer to your letter dated 27 February 2013, encouraging the Government of Liberia to provide information on the steps it has taken, or intends to take, towards full implementation of resolution 1540 (2004).

In this regard, I am pleased to report that the Government of Liberia has criminalized the financing of any activities involving radioactive, chemical or biological agents in the Anti-Money Laundering and Terrorist Financing Act recently passed by the National Legislature, pursuant to resolution 1540 (2004). Further steps are being taken to introduce legislation specifically prohibiting the proliferation of nuclear weapons, in line with the resolution. Liberia has neither engaged in nor experienced any violation of resolution 1540 (2004).

Meanwhile, in regard to your request, the Government of Liberia is pleased to designate the following officials of the Government as focal officials.

Clarence Massaquoi Inspector-General of the National Police	Focal official of the Ministry of Justice (MOJ)
Conmany B. Wesseh Minister of State without Portfolio Acting Chairman of the Commission on Small Arms	Focal official
Marjon V. Kamara Ambassador Extraordinary and Plenipotentiary Permanent Representative of Liberia to the United Nations	Focal official

(*Signed*) Marjon V. **Kamara**
Ambassador
Permanent Representative

13-40257 (E) 260713

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Security Council

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Security Council Committee established pursuant to resolution 1540 (2004)

Note verbale dated 25 June 2013 from the Permanent Mission of Luxembourg to the United Nations addressed to the Chair of the Committee

The Permanent Mission of Luxembourg to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution 1540 (2004) and has the honour to refer to the Chair's letter of 27 February 2013, in which he requested updated information on the steps that the Government of Luxembourg has taken or intends to take in order to comprehensively implement resolution 1540 (2004).

The Permanent Mission of Luxembourg to the United Nations has the honour to transmit herewith an updated report on the matter (see annex).

13-40311 (E) 020813

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Annex to the note verbale dated 25 June 2013 from the Permanent Mission of Luxembourg to the United Nations addressed to the Chair of the Committee

National report of the Grand Duchy of Luxembourg on the implementation of Security Council resolution 1540 (2004)

Luxembourg's policy in relation to the provisions of resolution 1540 (2004)

1. Luxembourg welcomes the adoption by the Security Council of resolution 1540 (2004) and undertakes to comply with and implement all the provisions of that resolution.

2. The risk of seeing terrorists gaining access to weapons of mass destruction and their means of delivery or to chemical, biological, nuclear or radioactive materials poses a growing threat to international peace and security. The particular emphasis of resolution 1540 (2004) on non-State actors fills a lacuna in international law.

3. Luxembourg has also signed and ratified the Treaty on the Non-Proliferation of Nuclear Weapons, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention. The provisions of those treaties have been incorporated into national legislation.

4. Luxembourg has also signed and ratified the Additional Protocol to the International Atomic Energy Agency (IAEA) Safeguards Agreement. That Agreement was ratified by the Act of 1 August 2001 and came into force on 30 April 2004 simultaneously in Luxembourg and all member States of the European Union.

5. Furthermore, Luxembourg is an active member of export control regimes such as the Nuclear Suppliers Group, the Zangger Committee, the Missile Technology Control Regime, the Australia Group and the Wassenaar Arrangement. The control lists of these regimes have been incorporated into Council Regulation (EC) No. 428/2009 (dual-use goods and technology) and Council Common Position 2008/944/CFSP (control of exports of military technology and equipment), which are updated regularly and are applicable in Luxembourg.

6. Luxembourg has subscribed to the Hague Code of Conduct against the Proliferation of Ballistic Missiles, an important policy instrument in the fight against the proliferation of ballistic missiles as a means of delivery of weapons of mass destruction, which has proved to be an effective confidence-building measure.

7. The creation of the Proliferation Security Initiative addressed an urgent need to combat the illicit transport of weapons of mass destruction and related materials and equipment. Luxembourg endorses the Statement of Interdiction Principles, adopted on 4 September 2003 in Paris, and intends to actively work towards its success.

8. The Global Initiative to Combat Nuclear Terrorism was developed in response to an urgent need to combat the diversion of radiological or nuclear materials for terrorist purposes. Luxembourg supports the Statement of Principles of the Initiative agreed upon in Rabat on 31 October 2006, and intends to work actively towards its success.

9. In June 2003, at the Thessaloniki Summit, the European Council adopted a declaration on the non-proliferation of weapons of mass destruction. In December 2003, that commitment was given concrete effect through the adoption of a European Union Strategy against Proliferation of Weapons of Mass Destruction. The Strategy recognizes that non-proliferation, disarmament and arms export control policies make a substantial contribution to the fight against terrorism by reducing the risk of non-State actors gaining access to weapons of mass destruction and their means of delivery as well as to related materials and equipment. As a member of the European Union, Luxembourg fully supports this instrument and is actively working towards its implementation.

10. In December 2006, the Council of the European Union endorsed a concept paper outlining how to monitor and enhance further the consistent implementation of the European Union Strategy against Proliferation of Weapons of Mass Destruction through a weapons of mass destruction monitoring centre. With the entry into force of the Lisbon Treaty on 1 December 2009, the consistency of European Union actions in combating the proliferation of weapons of mass destruction is now guaranteed by the European External Action Service. A consortium of leading non-proliferation think-tanks has been established in 2010 to promote academic guidance and advice to the Action Service.

11. On 13 December 2010, the Council of the European Union adopted new directives for action by the European Union in combating the proliferation of weapons of mass destruction and their delivery systems in order to raise the profile of non-proliferation measures within the European Union by turning this fundamental security issue into a cross-cutting priority of member States' policies in this field, as well as to identify existing best practice and to spread such practice at the level of member States.

National bodies responsible for the implementation of resolution 1540 (2004)

Ministry of Foreign Affairs

The Department of Political Affairs in the Ministry of Foreign Affairs is the focal point for relations with the 1540 (2004) Committee. At the national level, the Ministry ensures the coordination among the relevant ministries and bodies responsible for the implementation of resolution 1540 (2004). Under the direction of the Ministry, a national authority is responsible for the obligations under the Chemical Weapons Convention and for liaising with the Organization for the Prohibition of Chemical Weapons (OPCW).

Ministry of State

The intelligence service of the Ministry of State is responsible for proactively gathering, analysing and processing intelligence relating to any activity that threatens or is likely to threaten the security of the Grand Duchy of Luxembourg, States to which it is bound by a joint defence agreement or international organizations that are based or operate in Luxembourg, or its international relations.

Licensing Office, Ministry of the Economy and Foreign Trade

The Licensing Office is responsible for the issuance of licences for the export (and transit) of goods that are either on the list of military weapons and equipment or the list of dual-use goods and related technology.

Every application is processed taking into account the relevant goods and final destination/country of destination. An end-user certificate is required for every export application. Applications are processed on the basis of criteria established by working groups of the European Union.

Applications for export licences may be denied if: a particular transaction is deemed harmful to the interests of Luxembourg or its allies; the goods to be exported are to be or can be used for the development, manufacture, handling, operation, maintenance, stockpiling, detection, identification or dissemination of chemical, biological or nuclear weapons or the development, manufacture, maintenance or stockpiling of missiles for the delivery of such weapons; a European Union member State or another State party to any non-proliferation and export control regime has already denied a similar transaction and notified its other partners accordingly; or the application is not properly completed, is incomplete or inaccurate and the exporter refuses to cooperate with the authorities. A similar approach is used with respect to the processing of applications for the transit of strategic goods.

The Office works closely with the Customs and Excise Department, which is responsible for the effective control of goods leaving the country. The Office may seek information from the State Intelligence Service on sensitive firms and end-users. Cooperation with the Radiation Protection Division is vital for its input based on its expertise in nuclear issues.

Customs and Excise Department, Ministry of Finance

As part of the efforts to combat fraud and drug addiction as well as to control the export, transit and import of all kinds of sensitive goods, including the chemical precursors of narcotic drugs, biological, chemical and nuclear weapons and dual-use goods, the Customs and Excise Department established on 1 January 2004, in the air freight section of Luxembourg airport, a new special unit solely responsible for air freight issues. The Unit, called the Risk-Analysis and Targeting Unit, which is supported by a surveillance brigade, is responsible for targeting sensitive air freight leaving and entering European Union territory through Findel airport. In Luxembourg, Findel airport is the only direct point of entry into and exit from European Union territory, since the country is surrounded by European Union member States.

Similarly, under the Act of 5 August 1963 on the monitoring of the import, export and transit of goods, the Risk-Analysis and Targeting Unit has conducted continuing inspections by targeting documents or goods transiting through Luxembourg airport.

Radiation Protection Division, Ministry of Health

The Radiation Protection Division is responsible for protection of the public against the dangers of radiation. It is responsible for maintaining an updated inventory of substances, materials and equipment that emit ionising radiation.

The Radiation Protection Division also has jurisdiction, together with the Licensing Office, over transfers of nuclear material, equipment and technology.

The Radiation Protection Division, together with the Ministry of Foreign Affairs, the Licensing Office, the Customs and Excise Department and the Intelligence Service, is responsible for preventing, investigating and reporting violations with respect to the implementation of legislation relating to weapons of mass destruction.

Compliance by Luxembourg with the requirements of individual paragraphs of resolution 1540 (2004)

Paragraph 1

Decides that all States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery;

Luxembourg does not provide any support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery.

Paragraph 2

Decides also that all States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them;

All the obligations under the Nuclear Non-Proliferation Treaty, the Safeguards Agreement and Additional Protocol, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention have been incorporated into Luxembourg's legislation:

- The Act of 20 December 1974 ratifying the Nuclear Non-Proliferation Treaty;
- The Grand-Ducal Regulation of 31 July 1989 on transfers of nuclear materials, equipment and technology and the conditions for their physical protection;
- Council Regulation (EC) No. 428/2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items;
- Council Common Position 2008/944/CFSP defining common rules governing control of exports of military technology and equipment;
- Act of 1 August 2001 ratifying the Additional Protocol on the strengthening of the non-proliferation of nuclear weapons designed to detect clandestine nuclear activities;
- Act of 10 April 1997 ratifying the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction;

- The Grand-Ducal Regulation of 3 June 1997 implementing the Act of 10 April 1997 ratifying the Chemical Weapons Convention;
- The Act of 28 November 1975 ratifying the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction.

The amendment to the Act of 10 April 1997 ratifying the Chemical Weapons Convention provides for penalties against anyone who attempts to use, develop, produce, transfer or stockpile chemical weapons. Under article 4, Customs and Excise officers holding the rank of deputy inspector or higher can act as police officers (*officiers de police judiciare*) with authority to investigate and report infringements of the Act wherever they may occur in the country:

- The Act of 15 March 1983 on weapons and ammunition introduces into Luxembourg legislation the prohibition of the use of weapons or other devices containing lachrymatory, toxic, asphyxiating, irritant or similar substances to attack people;
- The Act of 12 August 2003 on the suppression of terrorism and of its financing and the approval of the International Convention for the Suppression of the Financing of Terrorism;
- The Act of 27 October 2010 on the strengthening of the legal framework to combat money-laundering and the financing of terrorism; on the organization of controls on the physical transportation of cash when entering, transiting through or leaving the Grand Duchy of Luxembourg; on the implementation of Security Council resolutions and acts adopted by the European Union concerning prohibitions and restrictive measures in financial matters in respect of certain persons, entities and groups as part of the effort to combat the financing of terrorism.

Luxembourg is currently preparing:

- New legislation on the strengthening of criminal sanctions against non-State actors for weapons of mass destruction or related activities;
- New legislation on the strengthening of criminal sanctions in connection with the implementation of Security Council resolutions and acts adopted by the European Union concerning prohibitions and restrictive measures in respect of certain persons, entities and groups as part of the effort to combat the financing of terrorism;
- New legislation strengthening the legal framework for implementation of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, signed in Paris on 13 January 1993.

Paragraph 3

Decides also that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall:

(a) Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport;

- Amendment to the Act of 25 March 1963 on the protection of the general public against the dangers of ionising radiation. The Radiation Protection Division draws up an inventory at the national level of all substances, materials and equipment that emit ionising radiation. That inventory is regularly updated;
- Council Regulation (EC) No. 428/2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items.

(b) Develop and maintain appropriate effective physical protection measures;

- The Grand-Ducal Regulation of 31 July 1989 on transfers of nuclear materials, equipment and technology and the conditions for their physical protection, amended by the Ministerial Regulation of 3 February 1993, which states that the import, possession, production or transfer of nuclear materials, equipment and technological data are required to be the object of effective physical protection in order to prevent any unauthorized access, use or handling; levels of physical protection are to be at least equivalent to those recommended by IAEA or provided for under international agreements;
- Council Regulation (EC) No. 428/2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items;
- Council Common Position 2008/944/CFSP defining common rules governing control of exports of military technology and equipment;
- Luxembourg is a party to the Treaty establishing the European Atomic Energy Community (EURATOM). The safeguards agreements provided for under Chapter 7 of the Treaty are implemented by the European Commission, which ensures that nuclear materials are not diverted from their civilian use in Luxembourg;
- Luxembourg has signed the IAEA Code of Conduct on the Safety and Security of Radioactive Sources;
- Act of 11 April 1985 ratifying the Convention on the Physical Protection of Nuclear Material.

(c) Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law;

- The Act of 4 March 1998 further amending the amended Act of 5 August 1963 on the monitoring of the import, export and transit of goods. Customs and Excise officials are authorized to investigate and report violations of the provisions of the Act of 5 August 1963 and its implementing regulations throughout the country. Violations of the Act are penalized under articles 231, 249 to 253 and 263 to 284 of the General Act on Customs and Excise;

- Regulation (EC) No. 450/2008 laying down the Community Customs Code (Modernized Customs Code).

(d) Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations;

- The Act of 5 August 1963 on the monitoring of the import, export and transit of goods, as amended, covers licences for the import, export and transit of goods as well as technology transfer. Implementing regulations deal with specific items such as dual-use goods. Penalties for the violation of this Act are contained in the General Act on Customs and Excise. Administrative sanctions are also provided for;

- The Grand-Ducal Regulation of 31 October 1995 on the import, export and transit of arms, munitions and equipment specifically intended for military use and related technology prohibits the export, import and transit of chemical and biological weapons. This regulation is based on the Act of 5 August 1963;

- Council Regulation (EC) No. 428/2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items;

- Regulation (EC) No. 450/2008 laying down the Community Customs Code (Modernized Customs Code);

- Council Common Position 2008/944/CFSP defining common rules governing control of exports of military technology and equipment.

Paragraph 6

Recognizes the utility in implementing this resolution of effective national control lists and calls upon all Member States, when necessary, to pursue at the earliest opportunity the development of such lists;

Luxembourg is an active member of the Nuclear Suppliers Group, the Zangger Committee, the Missile Technology Control Regime, the Australia Group and the Wassenaar Arrangement. The control lists of these regimes are integrated into the regularly updated list corresponding to Council Regulation (EC) No. 428/2009 and Council Common Position 2008/944/CFSP, which are applicable in Luxembourg.

Paragraph 7

Recognizes that some States may require assistance in implementing the provisions of this resolution within their territories and invites States in a position to do so to offer assistance as appropriate in response to specific requests to the States lacking the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the above provisions;

Luxembourg recognizes that certain States may require outside assistance in order to implement effectively the provisions of the resolution.

Through the European Union, Luxembourg assists certain States in setting up export control mechanisms.

Paragraph 8

Calls upon all States:

(a) To promote the universal adoption and full implementation, and, where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons;

In the framework of the European Strategy against the Proliferation of Weapons of Mass Destruction, adopted in December 2003, and through its Council Common Position No. 2003/805/CFSP of 17 November 2003, the European Union has undertaken to work towards the strengthening and universalization of multilateral treaties in the areas of non-proliferation and disarmament.

The European Union regularly approaches States which are not parties to the multilateral treaties, in order to promote the universalization of those agreements.

In the framework of the Nuclear Suppliers Group, the Union is working towards the establishment of the Additional Protocol as a condition of supply, thereby encouraging the universalization of Safeguards Agreements and of the Additional Protocol.

The Union seeks to incorporate non-proliferation clauses into agreements with third States.

(b) To adopt national rules and regulations, where it has not yet been done, to ensure compliance with their commitments under the key multilateral non-proliferation treaties;

Luxembourg has enacted laws and regulations to ensure compliance with its commitments under the key multilateral non-proliferation and disarmament treaties:

- Act of 20 December 1974 ratifying the Treaty on the Non-Proliferation of Nuclear Weapons;
- Act of 1 August 2001 ratifying the Additional Protocol on the strengthening of non-proliferation of nuclear weapons in order to detect clandestine nuclear activities;
- Act of 28 November 1975 ratifying the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction;
- Act of 10 April 1997 ratifying the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction;
- Grand-Ducal Regulation of 3 June 1997 on the implementation of the Act of 10 April 1997 ratifying the Chemical Weapons Convention;
- Amendment to the Act of 10 April 1997 on chemical weapons.

(c) To renew and fulfil their commitment to multilateral cooperation, in particular within the framework of the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons and the Biological and Toxin Weapons Convention, as important means of pursuing and achieving their common objectives in the area of non-proliferation and of promoting international cooperation for peaceful purposes;

The European Strategy against the Proliferation of Weapons of Mass Destruction and new lines for action by the European Union call for the provision of sufficient financial means to support specific projects of the IAEA, OPCW and the Comprehensive Nuclear-Test-Ban Treaty Organization. The European Union is currently preparing joint actions to provide financial support for IAEA and OPCW projects.

Luxembourg continues to provide its full support for the goals and activities of IAEA, OPCW and the Comprehensive Nuclear-Test-Ban Treaty Organization. In addition to its compulsory contribution to the budgets of these organizations, Luxembourg also makes voluntary financial donations to the IAEA Technical Cooperation Fund.

(d) To develop appropriate ways to work with and inform industry and the public regarding their obligations under such laws;

In Luxembourg, the State collaborates closely with industry. The Licensing Office is responsible for informing enterprises of their obligations in the area of non-proliferation.

Paragraph 9

Calls upon all States to promote dialogue and cooperation on non-proliferation so as to address the threat posed by proliferation of nuclear, chemical, or biological weapons, and their means of delivery;

Luxembourg attaches great importance to international cooperation and dialogue in the areas of non-proliferation and disarmament. It promotes dialogue and cooperation in international forums, since the threat of weapons of mass destruction is a global one and must be dealt with at the planetary level.

Paragraph 10

Further to counter that threat, calls upon all States, in accordance with their national legal authorities and legislation and consistent with international law, to take cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials;

The Proliferation Security Initiative and the Global Initiative to Combat Nuclear Terrorism, in which Luxembourg participates, are instruments that seek to intercept illicit trafficking in weapons of mass destruction, related materials and their means of delivery. These initiatives are a major contribution to international efforts against the proliferation of weapons of mass destruction, and complementary to the European Strategy against the Proliferation of Weapons of Mass Destruction.